REMARKS

Claims 1-19 are pending in the present application. The Examiner finally rejected the pending claims. Applicants herewith submit a Request for Continued Examination pursuant to 37 C.F.R. § 1.114 with this Amendment as the requisite submission. With entry of this Amendment, Applicant amends claims 1, 7-9, 12, 13, 18 and 19, cancels claims 2-6, 10, 14 and 17 and adds new claims 20-25. Reexamination and reconsideration are respectfully requested.

Claims 1-6

Applicant has amended claim 1 and canceled claims 2-6 without prejudice. Claim 1 has been amended in a number of ways to better claim the invention. The preamble has been amended to refer to the apparatus of claim 1 as an "audio" data recording/reproducing apparatus. Claim 1 has also been amended to recite a reproduction device.

The present invention, as set forth in amended claim 1, is capable of editing audio data made up of a plurality of tracks. When the current track data of a track is edited, the present invention stores the edited track data as "new current track data" in a storage device while storing the current track data before the editing as "track history data" in the same storage device. If the user wishes to undo a given edit, the present invention is able to select track history data at high speed. Claim 1 has been amended to recite that the processor is adapted to "perform control to select, in accordance with an instruction for undoing, one of the track history data, as new current track data."

It is noted that the Examiner rejected claim 1 before the present amendment under 35 U.S.C. § 103(a) as being unpatentable over Duvall (US 6166731) in view of Srikantan et al. (US 6857130 B2).

To expedite prosecution, Applicant respectfully submits that claim 1, as amended, is patentable over Duvall and Srikantan. Duvall at Fig. 2 illustrates an editing station 200 in communication with a plurality of remote stations. The user of the editing station can

simultaneously edit tracks from number of remote stations at a single location, i.e., the editing station 200. Duvall discloses that the editing station 200 has a graphical user interface (GUI) customized for the user. Fig. 6 illustrates a GUI for a sound editor while Fig. 8 illustrates a GUI for a dubber. (See Col. 6, lines 11-12.) In the case of the sound editor, the GUI allows the user to perform edit functions such as clear, cut, copy, paste and insert. (See Col. 4, lines 25-40.) Duvall, however, does not disclose or suggest that when editing is performed on a track, the track data before the editing is stored as track history data in the same storage device as the edited track data and that stored track history data can be selected in response to an "undo" instruction.

It appears from the Office Action at page 5, third full paragraph, that the Examiner believes that Duvall's edit functions are sufficient to disclose an "undo" instruction. Fig. 6, for example, discloses a reverse function near reference numeral 680. However, Duvall makes clear that the illustrated functions correspond to tape-based functions. (See Col. 6, lines 62-63 and Col. 7, lines 6-8.) There is no "undo" instruction in a tape-based system. The reverse function simply returns the read pointer to a position toward the beginning of the track whether the track is edited or not. It does not undo an edit operation.

The Examiner also notes that Fig. 6 discloses an Edit tab. Although Duvall does not disclose the functions listed within the Edit tab, the Examiner contends that an "undo" function is well-known. For support, the Examiner cites Ichimura (US 5894306) at page 18 of the Office Action. Ichimura discloses a data record/playback device for meetings. The device not only records the actions (such as speaking) in a meeting, but links the actions to a state (such as identifying the speaker) to allow for easy review of the meeting. At Col. 35, lines 32-48, Ichimura discloses that the device can be returned to a certain point in time of the recorded meeting by repeatedly performing an undo operation. The undo operation in Ichimura is, thus, a reverse function similar to Duvall's. There is no disclosure or suggestion in Ichimura that track data can be edited and that track data before an edit can be selected through an undo operation.

Finally, the Examiner cited Srikantan in rejecting claim 1. Srikantan is directed to resynchronizing a media stream due to transmission problems or media unavailability. In the Office

Action, at page 4, the Examiner cites to Col. 3, lines 25-37 and notes that he considers "audio metadata with sequence of time information for a track as equivalent to history of the track." The cited section merely refers to resynchronization in general. The sequence of time information, while possible providing a time line, is irrelevant to the current claim which recites storing track data before an edit as track history data and selecting stored track history data upon an undo instruction.

Accordingly, Applicant respectfully submits that claim 1 is in condition for allowance.

Claims 7 and 8

Applicant has amended claim 7 in a number of ways to better claim the invention. Claim 7 has been amended to recite a reproduction device and to more clearly recite what the processor is adapted to do. Specifically, the present invention, as set forth in claim 7, is directed to an audio recording/reproducing apparatus with a processor that is adapted to detect if a particularly quantity of audio data of at least one cluster is less than a certain amount. If so, the processor is adapted to "combine the audio data of the one cluster with the audio data of another cluster that precedes or follows the one cluster in the reproduction order . . . to obtain combined audio data" which is equal to or more than the certain amount. The processor is adapted to store the combined audio data into a cluster for reproduction separate from the one cluster. Applicant has amended claim 1 to recite that the processor is adapted to "add information indicating the cluster for reproduction to the track data stored in said second device, so that the combined audio data stored in the cluster for reproduction is reproduced in place of the one cluster during the sequential reproduction of the plurality of clusters based on the track data." Because the audio data stored in the cluster for reproduction is reproduced in place of the one cluster having an insufficient quantity of audio data, there is stable reproduction.

It is noted that the Examiner rejected claim 7 before the present amendment under § 103(a) as being unpatentable over Inoue (US 6097557) in view of Srikantan. To expedite prosecution, Applicant respectfully submits that claim 7, as amended, is patentable over Inoue in view of Srikantan.

Inoue discloses a method in which audio data can be discretely recorded in accordance with link information. (See, e.g., Col. 8, lines 5-60.) During recording, if the recorded data is shorter than the previously recorded data, the redundant area is also used for recording. (See, e.g., Col. 8, lines 24-27.) The Examiner cites to this discussion at page 8 of the Office Action as disclosing detecting if a particular quantity of audio data of at least one cluster is less than a certain amount, combining the audio data of the one cluster with the audio data of another cluster that precedes or follows the one cluster and storing the combined audio data in a cluster for reproduction separate from the one cluster.

Applicant respectfully disagrees. Inoue merely records data in a redundant area. There is no disclosure or suggestion of combining audio data of two clusters and storing the combined audio in a separate cluster. Applicant respectfully requests that the Examiner specifically identify how the recording of data in a redundant area is the same as combining audio data of two clusters and storing the combined audio data in a separate cluster.

Srikantan does not make up for the deficiencies of Inoue. As discussed above, Srikantan is directed to resynchronizing a media stream. It does not appear from the Examiner's rejection that Srikantan is being cited for detecting a cluster of insufficient audio data, combining audio data of two clusters and storing the combined audio data in a separate cluster. Nor could the Examiner do so. Srikantan does not disclose any such operations.

The Examiner contends at pages 8 and 9 of the Office Action that Srikantan discloses resynching the media stream at a later time and that this somehow discloses reproducing a cluster with combined audio data. Applicant respectfully disagrees. The media stream when resynched presumably will reproduce audio data. However, claim 7 recites a specific cluster for reproduction in place of a cluster with an insufficient quantity of audio data. Because Srikantan does not disclose the detecting of the data quantity of a cluster, combining of audio data of two clusters and storing the combined audio data in a separate cluster, it cannot possibly disclose reproducing the recited cluster with the combined audio data. The fact that Srikantan resynchs at a later time is simply insufficient to disclose what is recited in claim 7 in terms of reproduction.

Accordingly, Applicant respectfully submits that claim 7 is in condition for allowance.

Applicant has amended dependent claim 8 to better claim the invention, and respectfully submits that claim 8 is in condition for allowance for at least the reasons set forth above with respect to claim 7.

Claims 9-11

Claim 9 has been amended in several ways to better claim the invention. The amendment to claim 9 includes the recitation "wherein, for at least one particular cluster of which the particular quantity is less than a second data quantity which is smaller than said first data quantity, combined audio data obtained by combining the audio data of the particular cluster with the audio data of another cluster that precedes or follows the particular cluster in the reproduction order is stored in a cluster for reproduction in said first storage device, and information indicating the cluster for reproduction is added to the track data stored in second storage device." Claim 9 further recites "wherein when the particular cluster is to be reproduced during reproduction of the plurality of clusters in the reproduction order, said reproduction device reads out and reproduces the audio data from the cluster for reproduction indicated by the information added to the track rather than from the particular cluster."

It is noted that the Examiner rejected claim 9 before the present amendment under § 103(a) as being unpatentable over Inoue in view of Srikantan. To expedite prosecution, Applicant respectfully submits that claim 9, as amended, is patentable over Inoue in view of Srikantan for at least the reasons set forth above with respect to claim 7. Accordingly, Applicant respectfully submits that claim 9 is in condition for allowance.

Applicant has canceled dependent claim 10 without prejudice and respectfully submits that dependent claim 11 is in condition for allowance for at least the reasons set forth above with respect to claim 9.

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Claim 12

Applicant has amended claim 12 in a number of ways to better claim the invention. The amendment includes the addition of a step of "performing control to select, in accordance with an instruction for undoing, one of the track history data, as new current track data." It is noted that the Examiner rejected claim 12 before the present amendment based on Duvall and Srikantan. To expedite prosecution, Applicant notes that claim 12 is patentable over Duvall and Srikantan for at least the reasons set forth above with respect to claim 1.

Applicant also notes the Examiner rejected claim 12 under § 101 as directed to non-statutory subject matter. The Examiner contends that claim 12 does not reflect "a structure to perform the functions claimed" at page 17 of the Office Action. Applicant respectfully disagrees. Claims 12 recites a method "executed in an audio data recording/reproducing apparatus . . . ." Thus, the claim reflects structure for executing the claimed steps. This is sufficient. As MPEP 2106(IV)(B)(1)(a) makes clear, a § 101 rejection is proper when the claim *only* lists the computer steps. ("Similarly, computer programs claimed as computer listings *per se* . . . are not physical 'things.') However, when the process steps are executed by an apparatus, the claimed invention is statutory.

Accordingly, Applicant respectfully submits that claim 12 is in condition for allowance.

Claim 13

Applicant has amended claim 13 in a number of ways to better claim the invention, such as to more clearly recite the recited step of detecting. It is noted that the Examiner rejected claim 13 before the present amendment based on Inoue and Srikantan. To expedite prosecution, Applicant notes that claim 13 is patentable over Inoue and Srikantan for at least the reasons set forth above with respect to claim 7.

Applicant also notes the Examiner rejected claim 13 under § 101 as directed to non-statutory subject matter. The Examiner contends that claim 13, like claim 12, does not reflect "a

structure to perform the functions claimed." Applicant respectfully disagrees. Claims 13 recites a method "executed in an audio data recording/reproducing apparatus . . . ." Thus, the claim reflects structure for executing the claimed steps.

Accordingly, Applicant respectfully submits that claim 13 is in condition for allowance.

Claim 14

Claim 14 has been canceled without prejudice.

Claims 15-17

Claims 15 and 16 relate to claims 12 and 13 respectively. Applicant respectfully submits that claims 15 and 16 are in condition for allowance for at least the reasons set forth above with respect to claims 12 and 13 respectively.

Claim 17 has been canceled without prejudice.

Claim 18

Applicant has amended claim 18 in a number of ways to better claim the invention. The amendment includes a control device that "performs control to select, in accordance with an instruction for undoing, one of the track history data stored in said track data storage device, as new current track data." It is noted that the Examiner rejected claim 18 before the present amendment based on Duvall and Srikantan. To expedite prosecution, Applicant notes that claim 18 is patentable over Duvall and Srikantan for at least the reasons set forth above with respect to claim 1.

Accordingly, Applicant respectfully submits that claim 18 is in condition for allowance.

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Claim 19

Applicant has amended claim 19 in a number of ways to better claim the invention. The amendment includes the addition of a reproduction device. It is noted that the Examiner rejected claim 19 before the present amendment based on Inoue and Srikantan. To expedite prosecution, Applicant notes that claim 19 is patentable over Inoue and Srikantan for at least the reasons set forth above with respect to claim 7.

Accordingly, Applicant respectfully submits that claim 19 is in condition for allowance.

Claims 20-25

New claims 20-25 depend from either claims 13, 18 or 25. Applicant respectfully submits that these claims are in condition for allowance for at least the reasons set forth above with respect to claims 13, 18 or 25.
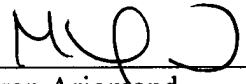
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicant requests that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss any steps necessary to place the application in condition for allowance.

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In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032028600.

Dated: January 25, 2006   Respectfully submitted,

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